

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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REVOLAZE LLC, :
:

Plaintiff, :
:

-v- :
:

J.C. PENNEY CORPORATION, INC. and J.C. PENNEY :
PURCHASING CORPORATION, :
:

Defendants, :
:

ADTN INTERNATIONAL LTD., :
:

Relief Defendant. :
:
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20-MC-191 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

Upon review of the parties’ motion papers, J.C. Penney’s motion to compel is GRANTED, substantially for the reasons set forth in its memoranda of law. There is no real dispute that J.C. Penney is entitled to take a deposition of Relief Defendant’s Rule 30(b)(6) witness; the only question is whether it is entitled to do so now and by what means.

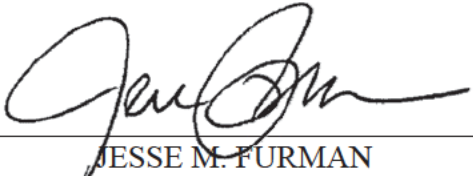
Put simply, given J.C. Penney’s deadlines in the underlying litigation and current public health restrictions that preclude an in-person deposition, proceeding by remote video deposition now — using a platform that enables the witness to confer privately with counsel and accommodating any childcare or personal needs — is the only way to ensure that J.C. Penney can get the evidence to which it is entitled. By contrast, the claims of Relief Defendant ADTN International Ltd. (“ADTN”) that the use of remote technology to prepare the witness and conduct the deposition will cause it prejudice are overblown, if not meritless.

Accordingly, the motion is GRANTED. The deposition shall take place no later than **May 7, 2020**. Counsel shall make an effort to schedule the deposition at a time that is convenient for the witness and allows for breaks as needed to accommodate her childcare or other personal needs. No later than **May 1, 2020**, J.C. Penney shall provide to ADTN's counsel (1) unredacted electronic copies of Revolaze's motion papers and (2) electronic copies of the documents ADTN produced.

The Clerk of Court is directed to terminate ECF No. 1 and close this case, but the Court retains jurisdiction to enforce this Order and to adjudicate any disputes concerning the deposition.

SO ORDERED.

Dated: April 29, 2020
New York, New York



JESSE M. FURMAN
United States District Judge